

The following amendments are proposed:

Item 1. Amend rule 621–9.1(20) as follows:

**621—9.1(17A,20) Final decisions.** ~~When a quorum of the members of the board presides at the evidentiary hearing in a contested case proceeding, the decision entered thereon is the final decision of the agency. When the hearing is presided over by other than a quorum of the members of the board, the administrative law judge shall render a proposed decision, which shall become the final decision of the agency unless within 20 days of the filing of such proposed decision:~~

~~—9.1(1) A party aggrieved by the proposed decision files an appeal to the board, or~~

~~—9.1(2) The board, on its own motion, determines to review the proposed decision.~~

9.1(1) By board majority. When a majority of the board presides at the reception of the evidence in a contested case, the decision of the board is a final decision of the agency.

9.1(2) By presiding officer. When a majority of the board does not preside at the reception of the evidence in a contested case, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:

a. there is an appeal to the board or a petition for its review filed within 20 days of the filing of the proposed decision, or

b. the board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.

Item 2. Amend rule 621–9.2(20) as follows:

**621—9.2(17A,20) Appeals to board or petitions for the board’s review.**

~~9.2(1) Notice of appeal or petition for review.~~ An appeal to the board from a proposed decision or a petition for review of a proposed decision of an administrative law judge in a contested case proceeding shall be commenced by filing a written notice of appeal or petition for review with the agency within 20 days of the filing of the proposed decision, ~~by filing a written notice of appeal with the agency in accordance with rule 621—16.4(20).~~ The appealing party shall promptly serve all other parties with a copy of the notice and file proof thereof with the agency in accordance with rule 621—16.10(20).

9.2(2) Cross-appeals or cross-petitions for review. A cross-appeal or cross-petition for review may be taken in the same manner as an appeal or a petition for review and shall be filed within the 20 days of the filing of the proposed decision for taking an appeal or within 5 days after the initial appeal or petition for review is taken filed, whichever is later.

~~9.2(3) Hearing.~~ On appeal the board shall utilize the record as submitted before the administrative law judge but may, upon application of a party, order that additional evidence be taken on appeal if it is shown that the additional evidence is material and that there were good reasons for the party’s failure to present it before the administrative law judge. Any person, employee organization or public employer who has a significant interest in the outcome of the appeal may petition the board for intervention in the appeal proceedings. Where intervention is granted by the board, the intervening parties may submit briefs and arguments and participate in the same manner as an original party to the proceeding. The board shall set a time and place of hearing or argument and give notice thereof to the parties. The decision rendered by the board shall be a final decision of the agency.

9.2(3) Method of filing. All appeals and petitions for review shall be electronically filed

pursuant to 621–chapter 16.

Item 3. Adopt the following **new** rule 621–9.3(17A,20):

**621—9.3(17A,20) Board’s review on its own motion.** The board may determine to review the proposed decision within 20 days of the filing of the proposed decision by filing an order for review.

Item 4. Adopt the following **new** rule 621–9.4(17A,20):

**621—9.4(17A,20) Petition for amicus curiae status.** Any person, employee organization or public employer who has a significant interest in an outcome of an appeal or review pursuant to either rule 621–9.2(17A,20) or rule 621–9.3(17A,20) may petition the board for amicus curiae status. Where the petition is granted by the board, the amicus curiae may submit briefs and arguments and participate in the same manner as an original party to the proceeding.

Item 5. Adopt the following **new** rule 621–9.5(17A,20):

**621—9.5(17A,20) Board proceedings on appeal or review.** On appeal from or review of a proposed decision, the board has all the power that it would have in initially making the final decision except as it may limit the issues after giving notice to the parties.

**9.5(1) Procedure.** The parties shall be given an opportunity to file briefs and, with the consent of the board, present oral arguments to the board members who are to render the final decision. If the board consents to the presentation of oral arguments, the board shall file an order setting a time and place.

**9.5(2) Standard of review.** The board may reverse or modify any finding of fact if a preponderance of the evidence will support a determination to reverse or modify such a finding, or may reverse or modify any conclusion of law that the board finds to be in error.

**9.5(3) Final agency action.** The decision rendered by the board on appeal or review shall be a final decision of the agency.

Item 6. Adopt the following **new** rule 621–9.6(17A,20):

**621—9.6(17A,20) Rehearing.**

**9.6(1) Application.** Any party may file an application for rehearing, stating the specific grounds for rehearing and the relief sought, within 20 days after the date of the issuance of any final decision by the agency in a contested case. An application for rehearing shall be deemed to have been denied unless the board grants the application within 20 days after its filing.

**9.6(2) Method of filing.** The application shall be electronically filed pursuant to 621–chapter 16.

Item 7. Adopt the following **new** rule 621–9.7(17A,20):

**621—9.7(17A,20) Stays of agency action.**

**9.7(1) Application.** A party may file an application for a stay of agency action. The board may in its discretion and on such terms as it deems proper, grant or deny the application.

**9.7(2) Method of filing.** The application shall be electronically filed pursuant to 621—chapter 16.

Item 8. Amend **621—chapter 9**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A and 20.